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In re Application of:	:	
SEEL, Matthias, et al.	:	DECISION REGARDING
U.S. Application No.: 10/520,954	:	SUBMISSION UNDER
PCT No.: PCT/EP03/07513	:	37 CFR 1.42
International Filing Date: 10 July 2003	:	
Priority Date: 12 July 2002	:	
Attorney's Docket No.: 14836-48177	:	
For: ILLUMINATING DEVICE AND	:	
OPTICAL OBJECT-ANALYZING	:	
DEVICE	:	

This communication is issued in response to applicants' submission on 17 June 2005 of a declaration executed on behalf of the deceased inventor, which has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 10 July 2003, applicants filed international application PCT/EP03/07513 that claimed a priority date of 12 July 2002 and designated the United States. On 22 January 2004, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 12 January 2005.

On 10 January 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, an English translation of the international application. The submission did not include payment of the basic national fee, resulting in abandonment of the application with respect to the United States.

On 25 February 2004, applicants filed a petition for revival under 37 CFR 1.137(b) accompanied by payment of the basic national fee.

On 20 May 2005, this Office mailed a decision granting the petition for revival under 37 CFR 1.137(b).

On 25 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 and additional claims fees were required.

On 17 June 2005, applicants filed a response to the Notification Of Missing Requirements that included payment of the required claims fees and a declaration executed by the surviving inventor and on behalf of deceased inventor Klaus SCHALLER by his legal representative, Ines SCHALLER.

DISCUSSION

37 CFR 1.42 states in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR 1.497(b)(2) states:

If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for **both** the deceased inventor and the legal representative. Here, the filed declaration does not comply with 37 CFR 1.497(b)(2) in that it does not provide separate citizenship, mailing address, and residence information for the legal representative.

Because the filed declaration does not include all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42 and 37 CFR 1.497.

CONCLUSION

The 17 June 2005 submission under 37 CFR 1.42 is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include an oath or declaration executed on behalf of the deceased inventor by his legal representative and containing all the information required under 37 CFR 1.497, including, as discussed above, the citizenship, residence, and mailing address of both the legal representative and the deceased inventor.

Please direct further correspondence with respect to this matter to Mail Stop PCT,
Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,
Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT
Legal Administration.

A handwritten signature in cursive script, appearing to read 'nee R'.

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